

**REMARKS**

Claims 1 through 80 have been canceled, and claims 81 through 96, 98 and 99 are pending in the application. Claims 81 through 90, 92, 93, 96, 97 and 99 have been amended as shown above.

**I. Claim Format**

Claims 91, 94, 95 and 98 were objected to under 37 C.F.R 1.75(c) as being in improper form because it was said that “a multiple dependent claim should refer to other claims in the alternative only.” Claims 91, 94, 95, and 98 are not multiple dependent claims, but they do depend from multiple dependent claims. For clarity, multiple dependent claims 87 through 90, 92, 93, 96, 97, and 99 have been amended to clarify that they each depend from “one of” the preceding dependent claims, and thus all claims are believed to be presented in a proper format. See MPEP 608.01(n). Reconsideration of the objection is requested.

**II. Rejection of Claims Under 35 U.S.C. § 102**

Various sub-sets of the pending claims were rejected as anticipated under 35 U.S.C. 102(b) over one or more of five references. Specifically, claims 81 through 83, 87, 88, 89, 92, 93, 96, and 97 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,033,650 (Colin et al.). Claims 81 through 89, 92, 93, 96, and 97 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,547,101 (Sogaro). Claims 81 through 83, 87, 88, and 90 through 93 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,409,972 (Chan). Claims 81, 87, and 97 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,323,682 (Creighton, Jr.). And claims 81 through 83, 88, 89, 93, 96, and 99 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,843,653 (Xie et al.). Applicants respectfully request reconsideration of the rejection of those claims for at least the following reasons.

The five independent claims that are pending in the application – claims 81 through 86 – have each been amended as shown above to provide a further indication of the structure and operation of the capsules of the present invention. As noted in the description, one benefit of the capsules of the present invention is that they may be used together with a conventional dispenser that has a single plunger, instead of only being useful with a new type of dispenser that a dental

professional would have to purchase specifically for use with these capsules. More specifically, the independent claims have been amended to recite (with minor claim-specific variations in language) that the wherein the capsule is adapted for use within an applicator having a plunger adapted to advance the first and second pistons to dispense the material. This feature is not disclosed or suggested in any of the five prior art references of record. And although the “adapted for” language now present in the independent claims may not distinguish them over a reference that does disclose a capsule that is also adapted to perform the same function, none of the references relied upon in the office action discloses a capsule that is adapted to perform the claimed function. Specifically, none of the references discloses a *capsule* that can be used *within an applicator* as required in the independent claims, and none of the references discloses a capsule that can be used with an applicator *having a single piston*, as required in dependent claim 97, for example. For at least these reasons, independent claims 81 through 85 are allowable over the five references identified in the Office Action. Because the pending dependent claims include all of the limitations of the independent claim from which they depend, those dependent claims are similarly in condition for allowance. Reconsideration of the pending claims is respectfully requested.

Applicants note that U.S. Patent No. 6,843,653 is said to be to “Xie et al.”, but that patent number is actually to Carlton.

### III. Conclusion

All outstanding rejections are believed to have been addressed and overcome, and reconsideration of the application is respectfully requested. If a telephonic discussion with the Applicants’ representative would be useful in resolving any remaining matters in the application, the Examiner is invited to contact the undersigned at 651-736-4050.

Respectfully submitted,

December 22, 2009

Date

By: /Peter L. Olson/

Peter L. Olson, Reg. No.: 35,308  
Telephone No.: 651-736-4050

Document No. 768525  
Office of Intellectual Property Counsel  
3M Innovative Properties Company  
Facsimile No.: 651-736-3833